IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Crl.MC.No. 3149 of 2007()

O.R.NO.56/02 OF UDUMBANCHOLLA EXCISE RANGE OFFICE

PETITIONER: ACCUSED

GOPI, S/O.RAGHAVAN,
KARUKAPAALY HOUSE, NIRAPPU PARA KARA,
KARUNAPURAM VILLAGE,
UDUMBANCHOLLA TALUK, IDUKKI DT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA REP. BY
DIRECTOR GENERAL OF PROSECUTIONS,
HIGH COURT OF KERALA ERNAKULAM.

2. THE EXCISE RANGE OFFICER,
UDUMBANCHOLLA EXCISE RANGE,
IDUKKI DT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3149 of 2007

Dated this the 15th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under the Kerala Abkari Act. Investigation is complete. Final report has already been filed. On receipt of summons, the petitioner, it is submitted, has appeared through counsel and the matter stands posted to a later date for appearance. According to the petitioner, he is absolutely innocent. He was not arrested earlier. His absence earlier was not wilful or deliberate. He is now willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific

direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, expeditiously - on the date of surrender itself and in the light of the dictum laid down in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

(R.BASANT, JUDGE)

rtr/-